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Committee on Economic, Social and Cultural Rights

Fifty-ninth session

Summary record of the 57th meeting

Held at the Palais des Nations, Geneva, on Thursday, 22 September 2016, at 3 p.m.

Chair: Mr. Sadi

Contents

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Third periodic report of Tunisia

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The meeting was called to order at 3.05 p.m.

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Third periodic report of Tunisia (E/C.12/TUN/3; E/C.12/TUN/Q/3 and Add.1)

1. *At the invitation of the Chair, the delegation of Tunisia took places at the Committee table.*

2. **Mr. Ben Gharbia** (Tunisia), introducing his country's report, said that he was delighted to engage in an interactive dialogue with the Committee in the fiftieth anniversary year of the adoption of the Covenant. Since the consideration of its previous report in 1999, Tunisia had experienced a period of injustice, unemployment and widespread poverty that had culminated in the revolution of 2010 and 2011. Five years on, the economic and social situation remained difficult and financial resources were lacking. Nevertheless, the Government would spare no effort in guaranteeing the enjoyment of economic, social and cultural rights, which were enshrined in the Constitution of 2014, along with a range of other basic human rights. Tunisia had ratified the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Elimination of All Forms of Discrimination against Women.

3. The Government promoted gender equality, including through the implementation of Act No. 17 of 7 February 2000, which had repealed a provision of the Code of Obligations and Contracts requiring a contract signed by a woman to be validated by her husband. Acts of discrimination continued to be committed, however, which was why further measures needed to be taken in cooperation with civil society. The establishment of a constitutional court in the near future would represent an important step forward in that respect.

4. In 2015, the National Council for Social Dialogue had been set up and, in January 2016, a strategy had been launched to give fresh impetus to the economy and to encourage a more equal distribution of wealth. Rates of illiteracy, poverty and unemployment among women, though high, did not compare unfavourably with those in other countries in the region, but there were disparities between rural and urban areas.

5. The Government had put in place health programmes and was trying to streamline higher education by entering into partnership agreements with businesses and educational establishments. It had also created mechanisms, such as professional training courses, to foster the labour market integration of recent graduates.

6. In Tunisia, particular emphasis was placed on education. The Government had held national consultations on improvements to the education system and, in 2015, had undertaken initiatives to stimulate cultural activities.

7. Tunisia faced great challenges, fuelled by scarce resources, a lack of foreign direct investment and corruption in many sectors. With that in mind, a constitutional authority had been set up to combat corruption, and the Higher Committee on Human Rights and Fundamental Freedoms had been upgraded to serve as an independent national human rights institution.

8. While Tunisia did not claim to have met all its international obligations, there was a political willingness to restore democracy through the fulfilment of economic, social and cultural rights, as stipulated in the Constitution. The Government had a historic responsibility to make the Tunisian model successful in the wake of the Arab Spring and was working closely with public institutions and civil society to achieve that goal. It was

always ready to learn lessons and would therefore be happy to take on board any comments or recommendations that the Committee might make.

9. **Mr. De Schutter** (Country Rapporteur), expressing appreciation for the presence of a high-level delegation, said that Tunisia had changed completely since the consideration of its previous report in 1999 and that the current dialogue came at a time of transition, as the Government sought to implement the Constitution of 2014. Of the cross-cutting issues that would underpin the dialogue, special attention should be drawn to the status of women, poverty and inequality, and the availability of information and statistics.

10. Turning to more specific issues, he asked what could be done to promote the direct application of the Covenant by national courts, given that there were very few cases in which that had occurred, and whether the bill to establish a human rights commission, which was mentioned in paragraph 8 of the replies to the list of issues (E/C.12/TUN/Q/3/Add.1), had been adopted. If it had, the Committee would appreciate a copy of the text.

11. He wished to know what guarantees were in place to ensure that the Assembly of the Representatives of the People took into account the State party's international obligations in the course of negotiations with the European Union (EU) on the Deep and Comprehensive Free Trade Agreement, and that outside investors attracted under the new Investment Code respected national laws aimed at upholding economic, social and cultural rights.

12. With regard to corruption, he requested an update on the status of the bill on the protection of whistle-blowers referred to in paragraph 15 of the replies to the list of issues and invited the delegation to comment on the criticism from civil society that the bill on economic and financial reconciliation sent a message of impunity to those guilty of fraudulent conduct.

13. Noting that the level of external debt in Tunisia had increased significantly in recent years, he asked what safeguards were in place to ensure that any conditions attached to a loan did not unreasonably reduce the State party's ability to respect, protect and fulfil the Covenant rights, in line with the statement on public debt, austerity measures and the Covenant issued by the Committee in June 2016 (E/C.12/2016/1).

14. Concerning taxation, he wished to know whether there were plans to alleviate the disproportionate burden placed on formal-sector workers as a result of the size of the informal sector and the concessions granted to companies in order to encourage investment.

15. With reference to paragraph 28 of the replies to the list of issues, he asked what the Government's intentions were with regard to the bill on fighting all forms of discrimination and whether the bill took into account the Committee's general comment No. 20 (E/C.12/GC/20), pursuant to which States parties were required to ensure that a person's sexual orientation was not a barrier to realizing Covenant rights. In that connection, he remained deeply concerned that, under article 230 of the Criminal Code, sodomy was punishable by imprisonment for 3 years.

16. He would welcome information on the steps being taken to reduce regional inequalities. He asked whether the Government had developed any affirmative action programmes in favour of disadvantaged regions and, if so, what those programmes involved. The delegation should also describe what steps would be taken to improve progress indicators in order to gauge more accurately the situation of Tunisian Amazighs, who continued to encounter obstacles to the exercise of their rights.

17. He requested updated information on efforts to adopt a bill on asylum and asked whether, pending the establishment of a national asylum system, persons granted refugee status by the Office of the United Nations High Commissioner for Refugees (OHCHR) would be given access to education, employment and basic services.

18. As to gender equality, he noted that, while Tunisia had made great strides in terms of promoting equal access to education, its approach to guaranteeing equality in the labour market was somewhat dated and paternalistic, in that it favoured a traditional division of labour by sex. The delegation should explain to what extent such an approach was compatible with the Convention on the Elimination of All Forms of Discrimination against Women and with the State party's obligation to combat gender stereotypes.

19. Lastly, while he commended the State party's decision to withdraw its reservations to the Convention on the Elimination of All Forms of Discrimination against Women, the Code of Personal Status still contained discriminatory provisions, and the response to the Committee's request for details of the steps taken to end discrimination against women in matters of inheritance had not been reassuring.

20. **Mr. Schrijver** asked how the Government intended to combat unemployment and reduce employment disparities between regions and between male and female university graduates. He also asked whether there were plans to diversify employment prospects for women, who currently worked in only three sectors, and what the impact of the youth employment programmes had been. How many people had been able to exercise their right to work as a result of employment programmes? What level of labour and social security protection did workers in the informal sector enjoy? Given that some sectors were exempt from the minimum wage and that the informal sector was beyond the scope of supervisory bodies, he wished to know how the Government viewed its role in enforcing the minimum wage and ensuring compliance with social regulations. He enquired about the differences, in particular with regard to the level of labour protection, that the change from economic free zones to customs-exempt business parks would entail. Welcoming the growing range of trade unions, he asked how many workers were members of a trade union and whether restrictions on the right to strike might be reviewed in consultation with social partners. He invited the delegation to comment on how the State party reconciled the fact that a large swathe of the active population had limited social security coverage with article 38 of the Constitution, whereby everyone had a right to social security. Lastly, he asked what the State party's experience had been with implementing the recommendation of the International Labour Organization on social protection floors.

The meeting was suspended at 3.55 p.m. and resumed at 4.15 p.m.

21. **Mr. Ben Gharbia** (Tunisia) said that the Personal Status Code of 1956 had been the first of its kind in the Arab world and had ushered in improvements to women's rights that many countries had yet to adopt. All citizens were equal under the new Constitution, and the Government's role was to uphold the Constitution. A constitutional court would soon be established to review all laws, including those on inheritance rights; however, Tunisia being a democracy, the Government could not simply wave a magic wand: the legislative process had to be respected. The Investment Code was designed to increase wealth as a means of safeguarding fundamental rights. It fully took into account the country's international commitments, including those with regard to trade union rights and other economic and social rights, and did not provide for any preferential treatment; the only incitement was in the form of reduced administrative requirements. The bill on economic and financial reconciliation did not modify the prerogatives of the Truth and Dignity Commission and would not lead to impunity in corruption cases, as demonstrated by the fact that thousands of public servants were on trial for giving preferential treatment.

22. The Government could not protect the rights of workers of whom it was unaware; therefore, its goal was to shrink the informal sector as much as possible, inter alia through amendment of taxation laws and reform of the civil service. As part of its negotiations on a free-trade agreement with the EU, the Government of Tunisia had requested the inclusion of civil society in the talks to ensure that human rights were taken into account in the agreement. In the aftermath of the Arab Spring, lawmakers had decided to introduce in the

Constitution a provision for the establishment of five independent constitutional bodies or commissions, including one on human rights. A relevant bill had been submitted to the Assembly of the Representatives of the People, and each body's charter would cover international treaties. The Government cooperated closely with trade unions in ensuring respect for economic and social rights, including the right to strike. Strikes were problematic only when they were unauthorized. In fact, the Government had been accused of being too lenient on the issue of sit-ins.

23. The reason why the approach taken to increasing women's access to work appeared to be patriarchal was that, under the Constitution, families were paramount. The measures introduced, such as paid maternity leave, might seem to discourage women from working but, in reality, some women's organizations argued that they did not go far enough. Although the rights of minorities were recognized under the Constitution, the authorities needed to do further work on identifying the communities concerned. Affirmative action was taken in respect of certain disadvantaged regions, which received a greater share of investment. He stressed that Tunisia had made tremendous efforts to welcome over one million Libyan refugees, with almost no help from the international community.

24. Tunisia was striving to build a strong democracy and put human beings first, but it had a perennial funding problem and a long history to overcome. He requested the Committee's support and understanding.

25. **Mr. El Dine Haj** (Tunisia) said that the legislative system was being reviewed in order to bring it into line with article 20 of the Constitution, which ranked international treaties above domestic laws. The application of the Covenant by the courts depended on the type of court; the administrative courts, for example, had a history of applying international treaties directly, without citing domestic laws.

26. **Ms. Sebai** (Tunisia) said that international treaties could be applied directly in non-criminal matters. However, before the provisions of article 20 of the Constitution could become practice in all judicial courts, lawyers and judges needed to be trained in the Covenant and other international conventions.

27. **Mr. El Dine Haj** (Tunisia), responding to questions on the bill relating to the human rights commission, said that the Constitution contained an article providing for the establishment of a human rights commission and defining its structure and functions. The Government had adopted a participatory process in the drafting of legislation, with inputs from civil society, expert contributors and human rights bodies, and had also organized round tables and discussions. The bill had been submitted to the Prime Minister's Office, the Cabinet and to the Assembly of the Representatives of the People, where it was pending adoption. The drafting process had also taken into account the provisions of the Paris Principles and international treaties referring to guarantees of the structural, functional, administrative and financial independence of the commission.

28. **Ms. Mbarek** (Tunisia) said that the Constitution stated that natural resources were the property of the people and that the Government was responsible for overseeing their exploitation. Those considerations were relevant to the free trade agreement currently under negotiation between Tunisia and the EU, which would take economic, social and cultural rights into account. The Association Agreement signed between the EU and Tunisia in 1995 was still in force and had been useful in safeguarding those rights. The EU-Tunisia Action Plan (2013-2017) sought to promote a free trade agreement through an administrative committee under the Ministry of Finance and the Ministry of Agriculture, and with input from civil society. Various committees, comprising representatives of ministries, civil society and trade unions and members of parliament, were working to oversee relations between the EU and Tunisia. It was envisaged that the negotiations would be conducted with the full cooperation of governmental and non-governmental bodies, in a

participatory and transparent manner that was mindful of the right of development of Tunisia and of the Tunisian people.

29. **Ms. Sebai** (Tunisia), speaking on the fight against corruption, said that Tunisia had a law on the declaration of personal resources and the organization of transactions in general. The country had made international commitments in that area, including by ratifying the United Nations Convention against Corruption in 2008. Decree No. 120 of 14 November 2011 sought to bring Tunisia into line with the Convention, taking into account sovereignty, the need for accountability and transparency, and the establishment of a national strategy against corruption, including sanctions for the illegitimate acquisition of funds, notably through asset freezes. A further decree, due to enter force in March 2017, dealt with public office, governance and the fight against corruption, and aimed to strengthen the regulatory system while developing reporting and complaints mechanisms. Those legal texts also established ground rules for transactions by persons holding public office and stipulated that those responsible for dishonest acts could be excluded from their positions, with a view to ensuring transparency in the areas of procurement and tendering. A series of ethical principles, such as honesty, transparency, neutrality and accountability, had been developed and put in place in 2014, with a view to protecting public funds. A dedicated ministry had also been established to manage all corruption-related cases, pursuant to a 2016 decree, while a financial court set up in 2012 had jurisdiction to examine tax fraud and other acts of corruption. A witness protection bill had been approved by the Council of Ministers and submitted to the Assembly of the Representatives of the People for adoption. Despite those and other initiatives, such as efforts to examine the possibility of repatriating funds from abroad by extending the powers of the competent authority, work still needed to be done to strengthen the institutional governance framework. The Government was also engaged in ongoing awareness-raising activities in relation to public ethics, designed to prevent corruption and ensure full application of the code of conduct for public officials.

30. In terms of the legislative and policy framework for the fight against tax evasion, a reform of the tax system had been launched in 2013, on the basis of assessments and proposals put forward by a commission that had been set up in 2012 and which had carried out local, regional and national consultations. The new, simplified system would include transparency measures and measures against tax evasion, with a requirement for civil servants to declare wealth and assets. Proposals had also been put forward to establish a mechanism to bring those charged with tax evasion to trial, while mechanisms had been developed that would allow the Government to call upon institutions to hand over data on the transfer of funds, as well as obliging foreign institutions to appoint an accountant supervisor. Bank transaction and financial laws had also been passed in 2016, to enable the exchange of information with foreign companies while allowing Tunisia to comply with its international obligations.

31. **The Chair**, noting that there would be an opportunity to circulate additional written material at the end of the meeting, said that the delegation should use the remaining time to answer the questions raised on other aspects of the Covenant.

32. **Mr. Khalfa** (Tunisia) said that Tunisia had successfully met the first Millennium Development Goal in respect of the target of halving poverty. In the wake of the Tunisian revolution, the Government had ushered in reforms to ensure the independence of poverty reduction programmes and to bolster transparency through the participation of civil society. The number of families benefiting from the permanent grant programme had increased from 200,000 to 235,000, while the grant itself had been raised from 70 to 180 dinars. With the support of the World Bank, the Ministry of Social Affairs had launched a social security programme that aimed to standardize support for poor families. The reform of the social security system would allow the Government to target those most in need and limit disparities between regions.

33. The persistence of the informal sector was the result of the transition process and the slow growth of the economy, in addition to the low education levels of people working in the sector and a spike in unemployment. The social contract signed between the Government and trade unions included recommendations to gradually move towards a regularized economy. The Government was therefore conducting awareness-raising campaigns among informal workers, to promote their movement into the formal sector, and was providing them with incentives. Tax policies would also be reviewed for transparency and fairness, with a view to benefiting informal workers.

34. With regard to social security, there were several systems devoted to workers in different economic sectors. The Government had signed a framework agreement with the national labour federation and the fisheries and agriculture trade union in September 2015, which guaranteed the right to representation, to trade union membership and to safety at work. It was envisaged that other sectoral agreements would follow.

35. Minimum wages were in force for both the agricultural and non-agricultural sectors. A decree had been implemented that set the minimum wage in consultation with the most high-profile trade unions, taking into account inflation and GDP trends, in addition to revenues. The minimum wage in the agriculture sector had risen by 15 per cent between 2005 and 2015, while in the non-agricultural sector it had increased by 38 per cent over the same period. The informal sector was not covered by the labour code and was therefore not subject to labour inspections designed to enforce the legal minimum wage.

36. **Ms. Sebai** (Tunisia) said that a bill covering asylum rights was under discussion by the Government, following consultations with civil society and various relevant ministries. Pending the enactment of that bill, OHCHR, which had established a country office in Tunisia in 2011, was looking into asylum requests. Regarding the right to strike, article 49 of the Constitution outlined permissible restrictions of rights under conditions including the preservation of public order, national security, public health and public morals, and subject to requirements relating to necessity and proportionality. The Government would undertake efforts to standardize those restrictions, including in relation to the right to strike.

37. **Ms. Mbarek** (Tunisia) said that the regional development index adopted in 2012 showed the size of economic and social disparities between coastal and interior regions, as well as between different municipalities in the same region. It was crucial to speed up the implementation of public projects and to overcome procedural obstacles and land ownership issues, particularly in the interior. Investment totalling 3 million dinars had been channelled towards strengthening the infrastructure in rural regions, while other programmes had targeted the country's least developed regions, especially in the interior. Those funds, allocated in keeping with the regional development index, focused on infrastructure projects such as improving drinking-water supply and housing, and also provided a source of revenue for beneficiaries in the agricultural and fisheries sectors. As a whole, the integrated development programmes covered 90 municipalities and sought to inject vitality into communities, improve the living conditions of individuals and preserve the environment. Urban development programmes had also been carried out, with national oversight of all programmes on the basis of lists provided by regional authorities. Under the social development plan 2012-2018, over 70% of investment was devoted to the interior of the country.

38. **Ms. Ben Attitallah** (Tunisia) said that she wished to pay tribute to Tunisian civil society, which had undertaken colossal efforts in the sphere of economic, social and cultural rights.

39. The Government was aware of the sensitivity of the issue of non-discrimination, in all its dimensions. Significant work was being done in that sphere; however, the Government still needed to complete its stock-taking exercise, in collaboration with the

OHCHR country office. A national commission had been established and would be approved by civil society representatives, who would adopt a participatory approach. Regarding non-discrimination on the basis of ethnicity, a working group on ethnic minorities would be established, in parallel with consultations with civil society, while other associations would look at constitutional reforms and discriminatory practices. The Government of Tunisia appealed to the Committee for its assistance in addressing the issue of non-discrimination.

40. **Mr. Ben Gharbia** (Tunisia) said that any unanswered questions would be addressed in writing or at the subsequent meeting.

41. **Mr. De Schutter** said that further information would be appreciated on the steps that were being taken to ensure that employers made reasonable adjustments to workplaces for persons with disabilities, in line with the Convention on the Rights of Persons with Disabilities. The Committee would also welcome clarification of the mandate of the labour inspectorate with regard to the informal sector. It was particularly important to enforce the Labour Code in that sector, since it accounted for more than one third of the country's workforce.

42. **Mr. Schrijver** said that he would appreciate an answer to his earlier question about how many workers were members of a trade union.

43. **Mr. Atangana** said that the Committee was concerned by the high rate of school dropout among children aged between 7 and 12 years. Children who dropped out of school faced a lack of structure and were more vulnerable to criminal networks. He wished to know what measures were being taken by the State party to ensure that children remained in education. It would be useful if the delegation could estimate how soon the bill on the elimination of violence against women and girls would be adopted. The Committee would welcome more detailed statistics on sexual crimes against women and rape cases, to supplement the information provided in the annex to the State party's replies to the list of issues.

44. Noting that Tunisia did not appear to have a national action plan to combat poverty, he wished to know what measures would be taken by the State party to reduce the poverty rate and how soon the Government expected to be able to implement the social housing programme that had been delayed owing to administrative issues. Noting the major water shortages in Tunisia, particularly in certain regions, and the inadequacy of the existing management system, the Committee would welcome more information on what the State party was doing to guarantee water security and to ensure that all areas of the country had access to a reliable water supply. The State party's plan to introduce a protection and subsidy regime for homeless persons did not sufficiently address the problem of homelessness.

45. In terms of access to health care, there were clear disparities between regions, and corruption remained a source of concern. In some cases, patients were turned away from public establishments and obliged to seek private treatment. Persons with limited financial resources could find it difficult to obtain treatment. The figures provided in the annex to the State party's replies to the list of issues showed that the number of doctors per 100,000 inhabitants had fallen between 2009 and 2011. The Committee would like to know whether that number had risen since 2011 and what the State party was doing to improve the situation.

46. **Mr. Uprimny** said that, despite the Government's considerable investments in education over the past decade, significant improvements were still required if education was to serve as an instrument for development. Tunisia had performed rather badly in the most recent Programme for International Student Assessment survey. The illiteracy rate remained high, particularly among women, as did the rate of school dropout at both the

primary and secondary levels. The Committee would like to know more about the State party's concrete strategies to raise the quality of education and combat school dropout in order to reduce the illiteracy rate. Pre-school education was largely private, which meant that access to it remained limited. More information would be welcome on the steps being taken and the strategies being considered to ensure universal access to pre-school education. The questionable quality of some higher education establishments in Tunisia was also a source of concern. There was often a disconnect between the education provided and the skills required for the world of work, which made it harder for degree-holders to find employment. The Committee would welcome more information on how the State party intended to combat that problem and to make vocational training more attractive to young people.

47. Noting the evidence of regional disparities, for example with regard to school dropout, and the strong positive correlation between educational success and income level, he wished to know what steps were being taken to provide high-quality education for all and to ensure that the development of private education did not lead to social segregation. Article 39 of the Constitution, which stated that education should work to consolidate the Arab-Muslim identity, could pose a problem for communities in Tunisia with a different identity, such as the Amazigh community. He wished to know what measures were being undertaken to protect the identity of the Amazigh community and to promote the Amazigh language. The very low budget for the protection of Tunisian cultural and archaeological heritage was a source of concern. The Committee would appreciate more information on the measures envisaged to strengthen the protection of that heritage, especially in the areas inhabited by the Amazigh community. Lastly, more information would be welcome on the availability of Internet access to the general population and more specifically, to disadvantaged communities.

48. **The Chair** said that the Committee would like to know what interpretation of the Koran had been used as the basis for the abolition of polygamy. It would also welcome clarification on whether a more flexible approach had developed since the initial decision to abolish polygamy completely.

49. **Mr. De Schutter** said that the Committee would welcome more information on the exact content of the bill on the elimination of violence against women and girls. It wished to know, more specifically, whether the bill provided for an amendment to articles 218 and 319 of the Penal Code, which halted all investigations if the victim decided to withdraw her complaint; whether it provided for measures to keep perpetrators away from victims' homes; and whether it provided for the criminalization of marital rape and the repeal of article 227 bis of the Penal Code, under which a perpetrator of sexual violence could avoid prosecution by marrying his victim. The Human Rights Council's Working Group on the issue of discrimination against women in law and in practice had stated that the practice of customary or *orfi* marriages remained a source of concern.

50. With regard to poverty reduction, it was unclear how homeless people, without a fixed address, could be reached by the National Programme of Assistance to Needy Families. He wished to know whether the State party envisaged setting up an independent mechanism to monitor the impact of its social development programmes, and whether those programmes operated on a charitable basis or granted their beneficiaries certain rights that could be asserted before independent bodies. With regard to the proposed reform of food price subsidies, the Committee would welcome clarification on how the State party intended to address the challenges associated with targeting. In light of general comment No. 22 (2016) on the right to sexual and reproductive health, more information would be welcome on the current level of access to abortion services. He wished to know whether a complaints procedure was in place for women who were refused access to such services.

The meeting rose at 6 p.m.